

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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O.H. and M.H., infants by their mother and natural  
guardian, JACQUILINE HINKLE, and  
JACQUILINE HINKLE, individually,

Plaintiffs,

**NOTICE OF REMOVAL**

Case No.: 3:22-CV-0930 (BKS/ML)

vs.

NATIONAL VISION, INC., individually and doing  
business as AMERICA'S BEST CONTACTS &  
EYEGLASSES,

***Demand for Jury Trial***

Defendants.

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TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF NEW YORK

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and the local rules, Defendants National Vision, Inc. and "America's Best Contacts & Eyeglasses" (improperly sued herein), by their attorneys, hereby give notice of removal of this action from the Supreme Court of the State of New York, Tompkins County, Index No. EF2022-0410, to the United States District Court for the Northern District of New York on the basis of diversity jurisdiction. In support of said Notice, Defendant states as follows:

**Procedural History**

1. On August 9, 2022, Plaintiffs filed a Summons and Complaint in the Supreme Court of the State of New York, Tompkins County, and captioned as O.H. and M.H., infants by their mother and natural guardian, Jacqueline Hinkle, and Jacqueline Hinkle, individually v. National Vision, Inc., individually and doing as America's Best Contact Eyeglasses, Index No. EF2022-0410 (the "State Court Action"). A true and accurate copy of the Summons and Complaint are attached hereto as Exhibit A.

2. Improper service was attempted on “Defendant America’s Best Contacts & Eyeglasses” (improperly sued herein) on August 25, 2022.

3. Defendant National Vision, Inc. was served via substituted service on September 6, 2022, and a copy of the Affidavit of Service is attached is Exhibit B.

**Parties**

4. Upon information and belief, and according to the Summons and Complaint, Plaintiffs are residents of the County of Tompkins, State of New York.

5. “America’s Best Contacts & Eyeglasses”, improperly sued herein, is not a legitimate and active corporation.

6. Defendant National Vision, Inc., is a Georgia corporation, and its principal corporate offices are located at 2435 Commerce Avenue, Building 2200, Duluth, Georgia.

7. Based upon the foregoing, full diversity exists between the parties.

**Jurisdiction and Basis for Removal**

8. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 in that it is a civil action between citizens of different states.

9. Plaintiffs’ Summons and Complaint alleges that, on August 10, 2019, Defendant’s employee, Nicholas Vicioso, committed sexual acts in front of the minor plaintiffs, O.H. and M.H. thereby causing “severe and serious mental and psychological damages.” *See* Ex. A at ¶¶ 71-75, 82-83.

10. Upon information and belief, and based upon the allegations within the Complaint, as well as the identified claims injuries and corresponding damages, Plaintiffs seek damages in excess of \$75,000, exclusive of interest and costs, which meets the jurisdictional requirement.

**Basis for Removal**

11. This Court has subject-matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the federal district court for the district embracing the place where the state court suit is pending.

12. This Notice of Removal is filed with this Court within thirty (30) days of Defendant's receipt of a copy of the Summons and Complaint.

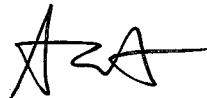
13. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiffs, by and through their attorneys of record, and is being filed with the Clerk of the Court of the State of New York Supreme Court, Tompkins County Clerk's office.

**WHEREFORE**, Defendant National Vision, Inc., filed this Notice of Removal so that the entire state court action under Index No. EF2022-0410 now pending in the State of New York, Supreme Court, County of Tompkins be removed to the United States District Court for the Northern District of New York for all further proceedings.

Dated: September 8, 2022  
Syracuse, New York

Respectfully submitted,

**GOLDBERG SEGALLA LLP**



By: Aaron M. Schiffrik, Bar Roll No. 517859  
William H. Hython, Bar Roll No. 702164  
5786 Widewaters Parkway  
Syracuse, NY 13214-1840  
315.413.5405  
[aschiffrik@goldbergsegalla.com](mailto:aschiffrik@goldbergsegalla.com)

*Attorneys for Defendant National Vision,  
Inc.*

To: Kathleen Beatty, Esq.  
Morgan & Morgan NY, PLLC.  
350 Fifth Avenue, Suite 6705  
New York, NY 10118  
917.344.7032  
[kbeatty@forthepeople.com](mailto:kbeatty@forthepeople.com)

*Attorneys for Plaintiffs*